

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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RICHARD BRAEGGER; DEBRA BRAEGGER,

Case No. 2:23-cv-01013-RFB-EJY

## Plaintiffs.

VS.

WYNDHAM VACATION RESORTS, INC.,  
ET AL.,

Defendants.

## ORDER

Pending before the Court is Defendant's Motion and Renewed Demand for Non-Resident Cost Bond from Plaintiffs. ECF No. 3.<sup>1</sup> Plaintiffs did not file an opposition. Under Local Rule of Practice for the United States District Court for the District of Nevada ("LR") 7-2(d) the failure of the non-moving party to oppose a motion may be treated by the Court as "consent to the granting of the motion."

Defendant requests \$500.00 in security from each Plaintiff under NRS 18.130(1), either by written undertaking filed with the Clerk of Court in accordance with NRS 18.130(3) or by depositing lawful money with the Clerk. *Id.* at 2-3. NRS 18.130(1) requires:

When a plaintiff in an action resides out of the State, or is a foreign corporation, security for the costs and charges which may be awarded against such plaintiff may be required by the defendant, by the filing and service on plaintiff of a written demand therefor within the time limited for answering the complaint. When so required, all proceedings in the action shall be stayed until an undertaking, executed by two or more persons, be filed with the clerk, to the effect that they will pay such costs and charges as may be awarded against the plaintiff by judgment, or in the progress of the action, not exceeding the sum of \$500; or in lieu of such undertaking, the plaintiff may deposit \$500, lawful money, with the clerk of the court, subject to the same conditions as required for the undertaking. The plaintiff, upon filing the undertaking or depositing the security, shall notify the defendant of such filing or deposit, and the

<sup>1</sup> The Court recognizes this Motion was filed on June 30, 2023.

1 defendant, after receipt of such notice, shall have 10 days or the  
2 period allowed under N.R.C.P. 12(a), whichever is longer, in which  
to answer or otherwise plead to the complaint.

3 NRS 18.130(3) requires “[e]ach of the sureties on the undertaking mentioned in subsection 1 shall  
4 annex to the same an affidavit that the surety is a resident and householder, or freeholder, within the  
5 county and is worth double the amount specified in the undertaking, over and above all the surety’s  
6 just debts and liabilities, exclusive of property exempt from execution.”

7 Accordingly, in the absence of opposition, IT IS HEREBY ORDERED that Defendant’s  
8 Motion and Renewed Demand for Non-Resident Cost Bond from Plaintiffs (ECF No. 3) is  
9 GRANTED.

10 IT IS FURTHER ORDERED that each Plaintiff **must** deposit \$500.00 in security with the  
11 Clerk of Court as required by NRS 18.130 no later than **14 days** after the date of this Order.

12 IT IS FURTHER ORDERED that if Plaintiffs fail to timely comply with this Order,  
13 Defendant may file a status report seeking a stay of this action.

14 IT IS FURTHER ORDERED that the Clerk of Court is directed to accept a cash deposit from  
15 Plaintiffs under NRS 18.130 as security for costs and charges that may be awarded against them.

16 Dated this 29th day of February, 2024.

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18 Elayna J. Youchah  
19 ELAYNA J. YOUCRAH  
20 UNITED STATES MAGISTRATE JUDGE

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